THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No.6386 OF 2006

DATED: 29-03-2006

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BETWEEN

Nadella Jayalakshmi Devi,

W/o. Vishnu Vardhan,

Plot No.31B, Ashok Nagar,

West Godavari District

And others.

...PETITIONERS

AND

State of Andhra Pradesh,

Rep. by its Principal Secretary,

Municipal & Urban Development

Department, Secretariat,

Hyderabad and others.

...RESPONDENTS

ORDER:

This writ petition is filed to declare the action of the respondents in marking a portion of the building properties bearing municipal Assessment No. 45541, 45544/2 & 45545 respectively belonging to the petitioners situated on the Eastern side of Sri Krishnadevaraya Road No.6 in Ashok Nagar, leading from District Court center to Ashok Pillar in Eluru Municipal Corporation limits with a direction to demolish the same for road widening without following

the procedure prescribed in law as illegal and arbitrary.

Learned counsel for the petitioners submits that the petitioners are absolute owners, possessors and enjoyers of their respective site and building properties situated adjoining Sir Krishnadevaraya Road in Ashok Nagar, Eluru Municipal Corporation Limits. He further submits that the petitioners and their predecessors constructed RCC rood buildings in their respective sites after obtaining sanction plan from the then local authority. He further submits that the petitioners never encroached into any portion of road and the buildings were constructed as per sanction plan. While so, on 22.03.2006 the employees of the respondents visited the premises of the petitioners and began marking on walls of their houses to an extent of about 4 to 6 feet depth from their respective compound walls, thereby asking the petitioners to remove their buildings up to marked portion within a week or else threatened to demolish the same.

The main grievance of the petitioners is that the respondents have not issued any notice before deciding to demolish the said premises and they are trying to demolish the building for the purpose of widening the road without acquiring the properties as contemplated under Chapter V of Hyderabad Municipal Corporations Act or under Land Acquisition Act, without following the due procedure prescribed under law and without paying any compensation either by way of private negotiations or by way of initiating proceedings under the Land Acquisition Act, which is utter violation of the principles of natural justice as well as Sections 146 and 147 of the Hyderabad Municipal Corporations Act, 1955 (for short 'the Act').

No doubt widening/laying of the road is in the public interest but while laying the road, if any property of private individual is coming in the way, it is for the respondents to acquire the same either by way of initiating land acquisition proceedings or by following due process of law.

Having regard to the facts and circumstances of the case,
the respondents are directed not to demolish the structures or take away any portion of the property of the petitioners and not to dispossess them without following due process of law either under Section 146 or 147 of the Hyderabad Municipal Corporations Act, 1955 or by private negotiations or by initiating the proceedings under the Land Acquisition Act, 1894.

The writ petition is accordingly disposed of.

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V. ESWARAIAH, J

March 29, 2006

DSK